

Notice of Allowability

Application No.

10/626,613 ✓

Examiner

Duy M. Dang

Applicant(s)

HONDA ET AL

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/3/05 and 11/29/05.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/289,937.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Applicant's amendment filed 10/3/05 and 11/29/05 have been entered and made of record.
2. The terminal disclaimer filed on 6/22/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USPN 6,493,466 has been reviewed and is accepted. The terminal disclaimer has been recorded.
3. The terminal disclaimer filed on 11/29/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USPN 6,608,938 has been reviewed and is accepted. The terminal disclaimer has been recorded.
4. In view of Applicant's arguments and Terminal Disclaimer, filed 11/29/05, with respect to the double patenting rejection(s) of claim(s) 1-3 and 5, such rejection has been withdrawn.

Examiner's Amendment

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Specification:

Page 1, please delete the following paragraph:

“This application is a continuation of 10/086,711, filed March 4, 2002, which in turn is a divisional of U.S. Application No. 09/289,937, filed April 13, 1999. The disclosure of both applications is incorporated herein by reference.”

and insert the following paragraph before the heading "BACKGROUND OF THE INVENTION:

"This application is a continuation of 10/086,711, filed March 4, 2002, now U.S. Pat. No. 6,608,938, which in turn is a divisional of U.S. Application No. 09/289,937, filed April 13, 1999, now U.S. Pat. No. 6,493,466. The disclosure of both applications is incorporated herein by reference."

Allowable Subject Matter

6. Claims 1-6 are allowed.
7. The following is an examiner's statement of reasons for allowance:

In view of the terminal disclaimer filed on 6/22/05 and 11/29/05, claims 1-3 and 5 are allowed.

Regarding claims 4 and 6, the cited prior art fails to teach or suggest the claimed features as recited in claims 4 and 6.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 6:00AM to 2:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on 571-272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dmd
12/05

A handwritten signature in black ink, appearing to read 'Duy M. Dang', with a long horizontal flourish extending to the right.

Duy M. Dang
Patent Examiner